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Dear Applicant:

We have completed our consideration of your application for recognition of exemption from federal income tax and we have concluded that you are not exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code. The reasons for our conclusion are explained below.

Your Articles of Incorporation provide that you were formed as a federation comprised of clergy and laity from groups affiliated with either organized national or international religious denominations or spiritual networks complementing the [REDACTED] presence in the City of God. Among those you included in your group are a [REDACTED], a [REDACTED] and a [REDACTED] minister. Further, your organization proposes to promote interfaith religious expression and facilitate such worship, ministerial, educational, and charitable activities. All activities appear to be conducted on property owned by one of your board members. You were previously located in [REDACTED] as part of the [REDACTED]. As a result of problems between your organization and [REDACTED], you have left [REDACTED] and your followers have relocated to other areas of the United States. Your plans for the future are vague and indefinite.

Section 501(c)(3) of the Code provides for the exemption from federal income tax of organizations organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations provides that in order to be exempt under section 501(c)(3) of the Code, an organization must be both organized and operated

exclusively for one or more of the purposes specified in such section. If an organization fails to meet the organizational test or the operational test, it is not exempt.

Section 1.501(c)(3)-1(c)(1) of the regulations provides, in part, that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities that accomplish one or more of such purposes described in section 501(c)(3) of the Code, but will not be so regarded if its activities are not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(c)(2) of the regulations provides that an organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals. Section 1.501(a)-1(c) defines the term "private shareholder or individual" in section 501 of the Code as persons having a personal private interest in the activities of the organization.

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations provides that an organization is not organized or operated exclusively for any of the purposes specified in section 501(c)(3) of the Code unless it serves a public rather than a private interest. Thus, to qualify under section 501(c)(3), an organization must establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or the creator's family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests. Moreover, the presence of a single nonexempt purpose, substantial in nature, such as the promotion of the business activities of its organizers, will prevent exemption. See Better Business Bureau of Washington, D.C., Inc. v. United States, 326 U.S. 279 (1945)

Section 1.501(c)(3)-1(d)(2) of the regulations states that the term "charitable" is used in section 501(c)(3) in its generally accepted legal sense. The term includes: relief of the poor and distressed or of the underprivileged; advancement of religion; advancement of education or science; erection or maintenance of public buildings, monuments, or works; lessening the burdens of government; and promotion of social welfare by organizations designed to accomplish any of the above purposes, or (i) to lessen neighborhood tensions; (ii) to eliminate prejudice or discrimination; (iii) to defend human and civil rights secured by law; or (iv) to combat community deterioration and juvenile delinquency.

Section 509(a)(1) of the Code excludes from the term "private foundation" organizations described in section 170(b)(1)(A) (other than in clauses vii and viii). Section 170(b)(1)(A)(i) refers to a "church or a convention or association of churches."

In American Guidance Foundation v. United States, 490 F. Supp. 304 (D.D.C. 1980), the court discussed the minimum standards required for recognition as a church under section 170(b)(1)(A)(i) of the Code. The court recognized the 14-part test used by the Internal Revenue Service in the determination as to whether a religious organization qualifies as a church. The fourteen criteria are:

- 1) a distinct legal existence,
- 2) a recognized creed and form of worship,
- 3) a definite and distinct ecclesiastical government,
- 4) a formal code or doctrine and discipline,
- 5) a distinct religious history,
- 6) a membership not associated with any other church or denomination,
- 7) an organization of ordained ministers,
- 8) ordained ministers selected after completing prescribed studies,
- 9) a literature of its own,
- 10) established places of worship,
- 11) regular congregations,
- 12) regular religious services,
- 13) Sunday schools for religious instruction of the young,
- 14) schools for the preparation of its ministers. (Id. at 306).

The court realized that "[W]hile some of these [criteria] are relatively minor, others, e.g. the existence of an established congregation served by an organized ministry, the provision of regular religious services and religious education for the young, and the dissemination of a doctrinal code are of central importance." Id. The court added that "[a]t a minimum, a church includes a body of believers or communicants that assembles regularly in order to worship." Id.

In Spiritual Outreach Society v. Commissioner, No. 90-1501 (8th Cir. 1991), the court ruled that the Spiritual Outreach Society (hereinafter "SOS") was not a church for federal tax purposes. SOS purchased land and built an amphitheater. SOS then began holding bi-monthly programs at the amphitheater during the months that the weather would permit outdoor gatherings. SOS also constructed a

small chapel that was available for unsupervised meditative activities and individual prayer. Organized worship did not take place in the chapel. The court examined SOS in light of the fourteen criteria listed in American Guidance Foundation, supra, and found that SOS had failed to demonstrate that it was a church. The court was mindful of SOS's claim that the fourteen criteria discriminate unfairly against rural, newly-formed churches, that lack the monetary resources held by other, more established churches. For that reason, the court set out what it considered core requirements of the fourteen criteria, an established congregation, an established ministry, and religious instruction of the young, and applied them to the facts of the case. Based on the facts, the court held that while SOS did not meet some of the criteria, it failed to show that it had satisfied the core requirements and, therefore, could not be recognized as a church.

Section 5.01 of Rev. Proc. 90-27, 1990-1 C.B. 514, provides that a determination letter will be issued to an organization only when its application and supporting documents establish that it meets the particular requirements of the section under which exemption is claimed. Section 5.02 of Rev. Proc. 90-27 provides that exempt status will be recognized in advance of operations only when the proposed operations can be described in sufficient detail to permit a conclusion that the organization will clearly meet the particular requirements of the section under which exemption is claimed.

Based on the information that you have submitted, we are unable to determine that the operational requirements for exemption under section 501(c)(3) and section 1.501(c)(3)-1(c)(1) of the regulations have been met. We are unable to conclude that your future activities will meet the requirements of section 1.501(c)(3)-1(d)(1)(ii) of the regulations, which requires that a public rather than a private interest be served, because you have not established that you are not organized or operated for the benefit of private interests. Also, we are unable to conclude, based on the information that you have submitted, that your future activities will meet requirements of section 1.501(c)(3)-1(c)(2) of the regulations, which states that an organization is not operated exclusively for exempt purposes if its net earnings inure in whole or in part to the benefit of private individuals.

Concerning your request to be classified as a "church" within the meaning of sections 509(a)(1) and 170(b)(1)(A)(i) of the Code, both the courts and the Service agree that there is no bright-line test as to whether an organization is primarily a religious organization or a church. Such a determination is to be made on

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a facts and circumstances basis. Since your membership consists of individuals holding various religious beliefs, and belonging to different churches, you do not have a common religious creed to which all your members can subscribe. In addition you have not ordained any ministers. These factors are taken into consideration when applying the American Guidance Foundation standards requiring a body of believers or communicants that assembles regularly in order to worship. Organizations must meet certain minimum requirements before they may be recognized as a church for federal tax purposes, namely an established congregation, an established ministry, and religious instruction of the young. Under current conditions, your organization meets none of these standards. Therefore, like the organization in Spiritual Outreach Society, supra, you fail to meet the minimum core requirements for classification of a church within the meaning of section 170(b)(1)(A)(i) of the Code and may not be recognized as such.

You are required to file federal income tax returns. Contributions to your organization are not deductible under section 170(c) of the Code.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement, signed by one of your principal officers, must be submitted within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your principal officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Procedures.

If you do not protest this ruling in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Code provides, in part, that a declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

If we do not hear from you within 30 days, this ruling will become final and copies of it will be forwarded to the District Director. Thereafter, if you have any questions about your federal income tax status, including questions concerning reporting

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requirements, please contact your key District Director. The appropriate State Officials will be notified of this action in accordance with Code section 6104(c).

Sincerely yours,

[REDACTED]
[REDACTED]
Chief, Exempt Organizations
Ruling Branch 2

cc: [REDACTED]

cc: [REDACTED]

[REDACTED] [REDACTED]
10/2/92 10-7-92